
NORTH CAROLINA FIREARMS LAWS

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I. INTRODUCTION

This publication is designed to assemble and present the basic firearms and weapons laws of North Carolina in an effort to educate and emphasize for the public the responsibilities and duties pertaining to the possession and use of firearms and related weapons in North Carolina. Most of the guidelines regarding the use, possession, and transfer of firearms in this publication are based upon statutory authority, case law, and Attorney General opinions. As there is an ever increasing awareness of firearms and their potential for misuse, all gun owners are urged to carefully evaluate their current methods of using and transporting firearms to ensure compliance with North Carolina law.

II. REQUIREMENTS FOR THE PURCHASE OF FIREARMS

On February 28, 1994, the Brady Handgun Violence Prevention Act became law. The Brady Law established numerous procedures to govern purchases of firearms from federally licensed firearms dealers. On November 30, 1998, the permanent provisions of the Brady Law took effect. The permanent provisions of the Brady Law provide for the establishment of a National Instant Criminal Background Check System (NICS) that federally licensed firearms dealers must contact before transferring any firearm (handgun or long gun) to people. The NICS system is operated by the Federal Bureau of Investigation.

Effective December 1, 1995, the Bureau of Alcohol, Tobacco and Firearms (BATF) decided that the handgun permitting scheme established in North Carolina complies with the exceptions provided in the Brady Law. Therefore, North Carolina's handgun purchase and concealed carry permits will suffice as a suitable alternative method for the purchase of a firearm in North Carolina from a federally licensed firearms dealer under Brady.

Therefore all firearm sales from federally licensed dealers after November 30, 1998 must include a NICS inquiry or a recognized alternative such as a valid pistol purchase or concealed carry permit. The specifics of the NICS system and its alternatives are discussed below.

A. FEDERAL REQUIREMENTS

Unless an alternative is recognized, if a person wants to purchase a firearm from a licensed dealer, the dealer must contact the Federal Bureau of Investigation's NICS Operations Center by telephone. The dealer will provide pertinent information about the purchaser to the NICS Center, which will in turn conduct a check of the available databases to see if the person is disqualified to receive or possess firearms.

The NICS databases will include:

- (1) Illegal/Unlawful Aliens File
- (2) Controlled Substance Abuse File
- (3) Dishonorable Discharge File
- (4) Citizenship Renunciant File
- (5) Mental Commitments File
- (6) Wanted Persons File
- (7) Domestic Violence Protection Order File
- (8) Criminal History File

Prior to the sale taking place, the firearm's dealer will have the purchaser complete and sign ATF Form 4473, Firearms Transactions Record. He will then verify the identity of the purchaser by examining a Government issued photo identification (for example, a driver's license). The dealer will then contact NICS. The NICS Center will respond to the dealer with either a "proceed", "denied" or "delayed" response. If a "denied" response is received the dealer will provide the person with literature on their appellate rights. If a "delayed" response is received and there is no additional response from the system, the sale can take place after three business days have elapsed. Federal Firearms Licensees' (FFLs) must keep a copy of each ATF 4473 for which a NICS check has been initiated, regardless of whether the transfer of the firearm was completed. If the transfer is not completed, the FFL must keep the Form 4473 for five years after the date of the NICS inquiry. If the transfer is completed, the FFL must keep the Form 4473 for 20 years after the date of the sale or disposition.

The Brady Law recognizes certain alternatives to the NICS checks. Since North Carolina handgun purchase permits qualify as an alternative to a NICS check, a firearms dealer may conclude a sale of a handgun or long gun without a NICS check, if the purchaser delivers a valid pistol purchase permit to the dealer.

NOTE: North Carolina law allows for the purchase of a single handgun with a single valid purchase permit. Multiple long guns may be purchased with a single pistol purchase permit, however they must be purchased in a single transaction.

It is the opinion of the United States Department of Justice that a valid North Carolina Concealed Handgun Permit may be used as an alternative to a NICS check for the purchase of firearms. Again, multiple long guns may be purchased if they are purchased in a single transaction.

If a transfer is made of a firearm by a licensed dealer to a person pursuant to the permit alternative, the purchaser must first complete and sign the BATF Form 4473. As usual the dealer will verify the identity of the purchaser by a photo identification. The permit must be valid and issued within the preceding five years. If a pistol purchase permit is used, the dealer will retain the original permit for the transaction. If a concealed handgun permit is used to buy a long gun, the dealer will either make a copy of the permit and attach it to the Form 4473 or record the permit number, issuance date and expiration date on the form.

Transfers of firearms to law enforcement officials for their official use are exempt from the provisions of the Brady Law when the transaction complies with the conditions set forth in the federal regulations at 27 CFR 178.134. In general, the purchaser must provide a certification on agency letterhead, signed by a person in authority within the agency (other than the officer purchasing the firearm), stating that the officer will use the firearm in official duties, and that a records check reveals that the purchasing officer has no convictions for misdemeanor crimes of domestic violence. If these conditions are met, the purchasing officer is not required to complete a Form 4473 or undergo a NICS check. However, the licensee must record the transaction in his or her permanent records, and retain a copy of the certification letter.

B. NORTH CAROLINA REQUIREMENTS

North Carolina's pistol permitting and concealed carry permit laws qualify as an alternative to the requirements of the Brady Law. Therefore, when a person desires to purchase a handgun from a federally licensed dealer the person need comply solely with North Carolina's pistol permit laws and present a valid permit to purchase a handgun or valid North Carolina issued concealed carry permit. (Please note: Even if a NICS inquiry by a federally licensed dealer was done in this circumstance, it does not do away with the necessity for a pistol purchase permit.) As always, any other transfer between private individuals is also governed by North Carolina's pistol permit laws.

Under North Carolina law, it is unlawful for any person, firm, or corporation to sell, give away, transfer, purchase, or receive, at any place in the State any pistol unless the purchaser or receiver has first obtained a license or permit to receive such a pistol by the Sheriff of the county where the purchaser or receiver resides or the purchaser or receiver possesses a valid North Carolina issued concealed carry permit. This requirement to obtain a permit prior to the transfer of a pistol applies not only to a commercial transaction,

typically at a sporting goods store, but also between private individuals or companies throughout North Carolina.

In addition, this State law has been interpreted to require that a pistol permit be obtained by the receiver of a handgun when such person inherits a pistol as a result of the death of another person. The permit should be given to and retained by the seller or donor of the handgun. In such a case, the permit should be given to the executor or receiver of the estate of the deceased person. If the purchaser or receiver uses a North Carolina issued concealed carry permit for the transfer, the seller should reference such permit on a bill of sale.

Further, it is unlawful for any person to receive from any postmaster, postal clerk, employee in the parcel post department, rural mail carrier, express agent or employee, or railroad agent or employee, within the State of North Carolina, any pistol without having in his or her possession such a pistol purchase or North Carolina concealed carry permit.

A violation of this pistol permit law is a Class 2 misdemeanor under North Carolina law. Specifically exempted from the provisions of this permit requirement are the transfer of antique firearms or historic edged weapons. An "antique firearm" is one that was manufactured on or before 1898 and includes any firearm with a matchlock, flintlock, percussion cap, or similar ignition system, or a replica thereof if the replica is not designed or redesigned for using rimfire or conventional centerfire fixed ammunition. It also includes any muzzle loading rifle, muzzle loading shotgun, or muzzle loading pistol, which is designed to use black powder substitute, and which cannot use fixed ammunition. The term "antique firearm" shall not include any weapon which incorporates a firearm frame or receiver; is converted into a muzzle loading weapon; or is a muzzle loading weapon that can be readily converted to fire fixed ammunition by replacing the barrel, bolt, breechlock, or any combination thereof. A "historic edged weapon" is defined to be a bayonet, trench knife, sword, or dagger manufactured during or prior to World War II but no later than January 1, 1946. The requirement of obtaining a permit prior to the receipt of a handgun, does not apply to the purchase and receipt of "long guns", such as shotguns and rifles. The fee for pistol permits is set by statute and is \$5.00 per permit.

The permit requirements set out for the purchase or receipt of handguns in North Carolina, also applies to the purchase, receipt, selling, giving away, or transfer of any crossbow. Therefore, prior to a person receiving a crossbow, the Sheriff must issue a permit in the same manner as if the individual was receiving a pistol. A crossbow is defined as a mechanical device consisting of, but not limited to, strings, cables, and prods transversely mounted on either a shoulder or hand-held stock. This device is mechanically held at full or partial draw and released by a trigger or similar mechanism which is incorporated into a stock or handle. When operated, the crossbow discharges a projectile known as a bolt.

A bolt is defined as a projectile made to be discharged from a crossbow and differs from an arrow in that the bolt is heavier and shorter.

C. ELIGIBLE PERSONS

1. Federal Law Requirements

As a general rule, the following categories of persons are ineligible to receive or possess a firearm under federal law.

- (1) Persons under Indictment or Information in any court for a crime punishable by imprisonment for a term exceeding one year.
- (2) Persons convicted in any court of a crime punishable by imprisonment for a term exceeding one year. A person would not be ineligible under this criteria if the person has been pardoned for the crime or conviction, the crime or conviction has been expunged or set aside, or the person has had their civil rights restored, and under the law where the conviction occurred, the person is not prohibited from receiving or possessing any firearm.
- (3) The person is a fugitive from justice.
- (4) The person is an unlawful user of, or addicted to, marijuana, or any depressant, stimulant, or narcotic drug, or any other controlled substance.
- (5) The person has been adjudicated mentally defective or has been committed to a mental institution.
- (6) The person has been discharged from the Armed Forces under dishonorable conditions.
- (7) The person is illegally in the United States.
- (8) The person, having been a citizen of the United States, has renounced his/her citizenship.

NOTE: A “crime punishable by imprisonment for a term exceeding one year”, as discussed in C. (1) and (2) above is defined in federal law so as to exclude most misdemeanors in North Carolina. Domestic violence misdemeanors discussed below are disqualifying misdemeanors under federal law.

Effective September 30, 1996, 18 U.S.C. § 921(a) was modified to prohibit the possession of firearms and ammunition by anyone convicted of a misdemeanor under federal or state law which has, as an element, the use or attempted use of physical force, or the threatened use of a deadly weapon, committed by a current or former spouse, parent, or guardian of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitation with or has cohabited with the victim as a spouse, parent, or guardian, or by a person similarly situated to a spouse, parent, or guardian of the victim.

A person is not considered convicted unless the person was represented by counsel in the case, or knowingly and intelligently waived the right to counsel in the case; and if the person was entitled to a jury trial, the person was tried by a jury or waived their right to such trial.

Further, the person is not considered convicted if the conviction has been expunged or set aside, or is an offense for which the person has been pardoned or has had their civil rights restored (if the law of the applicable jurisdiction provides for the loss of civil rights under such an offense) unless the pardon, expungement, or restoration of civil rights expressly provides that the person may not ship, transport, possess, or receive firearms.

2. North Carolina Requirements

A county Sheriff is only authorized under G.S. § 14-402 to issue a permit to receive or purchase a handgun or crossbow when an application is submitted by a person who is a resident of his particular county. The sole exception is that the Sheriff may issue a permit to a non-resident when the purpose of the permit is for collecting. Prior to issuing a permit, the Sheriff must fully satisfy himself by affidavits, oral evidence, or otherwise, that the applicant is of good moral character and that the person, firm, or corporation wants to possess the weapon for one of the following purposes:

- (1) The protection of his home, business, person, family, or property; or
- (2) Target shooting; or
- (3) Collection; or
- (4) Hunting.

Additionally, the Sheriff must verify by a criminal history background investigation that it is not a violation of state or federal law for the applicant to purchase, transfer, receive or possess a handgun. The Sheriff shall determine the criminal history of any applicant by accessing computerized criminal history records as maintained by the State and Federal

Bureaus of Investigation, by conducting a national criminal history records check, and by conducting a criminal history check through the Administrative Office of the Courts.

North Carolina law further specifies that a permit may not be issued to the following:

- (1) An applicant who is under an indictment, or information for, or has been convicted in any state, or in any Court of the United States, of a felony (other than an offense pertaining to anti-trust violations, unfair trade practices, or restraints of trade). However, a person who has been convicted of a felony and who is later pardoned may obtain a permit if the purchase or receipt of the pistol or crossbow do not violate the conditions of the pardon;
- (2) The applicant is a fugitive from justice;
- (3) The applicant is an unlawful user of or addicted to marijuana, any depressant, stimulant, or narcotic drug;
- (4) The applicant has been adjudicated incompetent or has been committed to any mental institution;
- (5) The applicant is an alien illegally or unlawfully in the United States;
- (6) The applicant has been discharged from the armed forces under dishonorable conditions;
- (7) The applicant, having been a citizen of the United States, has renounced their citizenship;
- (8) The applicant is subject to a court order that:
 - a. was issued after a hearing of which the person received actual notice, and at which the person had an opportunity to participate;
 - b. restrains the person from harassing, stalking or threatening an intimate partner of the person or child of the intimate partner of the person, or engaging in other conduct that would place an intimate partner in reasonable fear of bodily injury to the partner or child; and
 - c. includes a finding that the person represents a credible threat to the physical safety of the intimate partner or child; or by its terms explicitly prohibits the use, attempted use, or threatened use of

physical force against the intimate partner or child that would reasonably be expected to cause bodily injury.

As mentioned above, federal law prohibits aliens who are illegally in the United States from receiving or possessing firearms. Additionally, subject to certain exceptions, aliens who are in a non-immigrant status are prohibited from possessing or receiving firearms. Therefore, Sheriffs must make additional inquiries of applicants for pistol purchase permits to determine their alien status. The Sheriff must first determine if the applicant is a citizen. If the applicant is not a citizen, the Sheriff must obtain additional information on the person to include their country of citizenship; place of birth; and alien or admission number. If applicable the Sheriff may have to determine the basis of any claimed exemption from the non-immigrant alien prohibition. For example, a non-immigrant alien could possess or receive a firearm if he is in possession of a valid hunting license issued in the United States; is an official representative of a foreign government accredited to the United States; or has received a waiver by the United States Attorney General.

The requirement for obtaining a permit before purchasing or receiving a handgun does not apply to law enforcement officers of North Carolina, who are authorized by law to carry firearms. To use such an exemption, however, the law enforcement officer must identify himself to the vendor or donor as being a law enforcement officer authorized to carry firearms, and further state that the purpose for the weapon is directly related to his official duties. Law enforcement officers need to be aware that if the purchase of the weapon is not directly related to the law enforcement officer's official duties, they would be required to obtain a permit prior to the receipt of the weapon.

Each applicant for a license or permit should be informed by the Sheriff within thirty (30) days of the date of his or her application whether the permit will be granted or denied. When a Sheriff is not fully satisfied with the applicant's good moral character or eligibility to receive a permit, he should notify the applicant of the reasons for his refusal to issue a permit within seven (7) days of his decision. An applicant refused a permit has a right to appeal such refusal to the Chief District Court Judge for the district in which the application was filed.

A permit issued under the standards of state law is valid for a period of five years. A Sheriff is required to keep a book, which is provided by the Board of Commissioners of each county, of all licenses or permits issued. These records should include the date of issuance, name, age, place of residence, and former place of residence of each person, firm, or corporation to whom a license or permit has been issued.

A court in any domestic violence protective order can prohibit a party from purchasing a firearm for a time fixed in the order. Any person purchasing or attempting to purchase any firearm in violation of such an order is guilty of a class H Felony.

D. TEMPORARY TRANSFERS OF FIREARMS

The transfer of a pawned firearm from a licensed pawnbroker back to the owner of the firearm is subject to the requirements of the Brady Law. A NICS inquiry, or an alternative, must therefore be accomplished prior to the redemption of a pawned firearm. North Carolina law does not require the owner to procure a handgun permit when redeeming the firearm.

It is the opinion of the BATF that a consigned handgun which is not sold by the licensed dealer and is subsequently returned to its true owner is subject to the Brady Law.

A handgun which is delivered to a licensed dealer by an unlicensed person for the purposes of repair is not subject to the requirements of the Brady Law.

If the firearm is loaned or rented for use on the licensee's premises, the transaction is not subject to the Brady Law. However, if the firearm is loaned or rented for use off the premises, the licensee must comply with permanent Brady.

III. POSSESSING AND CARRYING FIREARMS

A. CARRYING CONCEALED WEAPONS

North Carolina law strictly controls the ability of individuals to carry weapons concealed. Except under the limited concealed handgun permit provisions of state law, described in section III. B. of this publication, it is unlawful for any person in North Carolina, except when on his own premises, to willfully and intentionally carry concealed either on or about his person any "Bowie knife, dirk, dagger, slungshot, loaded cane, metallic knuckles, razor, shurikin, stungun, or other deadly weapon of like kind." Specifically exempted from the requirements of this law are ordinary pocket knives carried in a closed position. An ordinary pocket knife is defined as being "a small knife, that is designed to be carried in a pocket or purse, which has its cutting edge and point entirely enclosed by its handle. The knife must not be capable of being opened by a throwing, explosive, or spring action."

Whether, in a given case, a weapon is concealed from the public, is a question of fact to be resolved by a jury. By using the phrase "concealed about his person", this law makes it illegal to have a weapon concealed not only on a person but also within a person's convenient control and easy reach.

Only certain categories of persons in North Carolina are allowed, in particular circumstances, to carry concealed weapons. Concealed handgun permits will be discussed

in detail later in the publication. The following categories of persons are exempt from the restriction of North Carolina's concealed weapons laws.

- (1) Officers and enlisted personnel of the armed forces of the United States when in the discharge of their official duties as such and when acting under orders requiring them to carry arms and weapons;
- (2) Civil and law enforcement officers of the United States;
- (3) Officers and soldiers of the Militia and the National Guard when called to actual service;
- (4) Officers of the State, or of any county, city, town, or company police agency charged with the execution of the laws of the State, when acting in the discharge of their official duties;
- (5) Sworn law enforcement officers, when off duty, provided that an officer does not carry a concealed weapon while consuming alcohol or an unlawful controlled substance or while alcohol or an unlawful controlled substance remains in the officer's body.

It is worth noting that while the law expressed in this publication is geared towards firearms, the limitations and cautions expressed for carrying concealed weapons apply to any other deadly weapon as well. Note: Out of state law enforcement officers may carry concealed handguns if the officer meets all of the criteria set forth under the federal law known as the Law Enforcement Officers Safety Act of 2004 (H.R.218) and is carrying valid identification as an off-duty officer.

B. CONCEALED HANDGUN PERMITS

As of December 1, 1995, certain residents of North Carolina may be eligible to obtain a permit which would allow them to carry a concealed handgun under certain conditions. No other weapons can be carried concealed pursuant to such permit.

As of August 14, 2003, North Carolina also allows certain out of state concealed handgun permittees to carry concealed handguns pursuant to such permits in North Carolina if the person's respective state also grants such privilege to North Carolina concealed handgun permittees. The list of states granting such reciprocity, and therefore recognized by North Carolina, is constantly changing. You should refer to the North Carolina Department of Justice website at www.ncdoj.com for a current listing of those states which are allowed to carry pursuant to their concealed carry permits in North Carolina. While carrying a handgun pursuant to such permit, qualified out of state

permittees are held to the same standards as North Carolina permittees. Consequently, there are a number of areas where concealed handguns cannot be carried in North Carolina regardless of the individual having a permit to carry a concealed weapon. Again this list is set forth on the North Carolina Department of Justice website. Also included on the website is a list of "Do's and Don'ts" for carrying a concealed handgun in North Carolina. In order to acquire a North Carolina permit, an individual must apply to the Sheriff's Office in the county in which he resides. As a part of the application process, the person must submit several items. They must complete an application, under oath, on a form provided by the Sheriff's Office. They must pay a non-refundable fee of \$80.00. The Sheriff must take two full sets of fingerprints of the applicant which may cost up to \$10.00. The applicant must provide an original certificate of completion of an approved handgun safety course. The applicant must also provide a release that authorizes and requires disclosure to the Sheriff of any record concerning the mental health or capacity of the applicant. Any person or entity who is presented by the applicant or by the Sheriff with an original or photocopied release form as described in G.S. § 14-415.13(a)(5) shall promptly disclose to the Sheriff any records concerning the mental health or capacity of the applicant who signed the form and authorized the release of the records.

NOTE: The permit fees for a retired sworn law enforcement officer who provides a copy of the officer's letter of retirement from either the North Carolina Teachers' and State Employees' Retirement System or the North Carolina Local Governmental Employees' Retirement System, and written documentation from the head of the agency where the person was previously employed indicating that the person was neither involuntarily terminated nor under administrative or criminal investigation within six months of retirement to the Sheriff, are \$45.00 for an application fee and \$40.00 for a renewal fee.

The Sheriff has 90 days from the time all of the application materials are received to either issue or deny a permit. In order for the applicant to be approved, he must:

- (1) be a citizen of the United States;
- (2) have been a resident of the state for no less than 30 days immediately preceding the filing of the application;
- (3) be at least 21 years of age;
- (4) not suffer from any physical or mental infirmity that prevents the safe handling of a handgun; and
- (5) have successfully completed an approved firearms training course (unless specifically exempted from the course by state law).

The Sheriff must deny the permit if certain prohibitions exist. The application must be denied if the applicant:

- (1) is ineligible to possess or receive a firearm under federal or state law;
- (2) is under indictment or against whom a finding of probable cause exists for a felony, or has ever been adjudicated guilty in any court of a felony;
- (3) is a fugitive from justice;
- (4) is an unlawful user of or addicted to marijuana, alcohol, or any depressant, stimulant or narcotic drug or any other controlled substance;
- (5) is currently, or has been previously adjudicated by a court or administratively determined by a governmental agency whose decisions are subject to judicial review to be, lacking mental capacity or mentally ill. Receipt of previous consultive services or outpatient treatment alone shall not disqualify an applicant;
- (6) has been discharged from the armed services under conditions other than honorable;
- (7) has been convicted of an impaired driving offense under N.C.G.S. §§ 20-138.1, 20-138.2 or 20-138.3 within three years prior to the date when the application was submitted;
- (8) has had an entry of prayer for judgment continued for a criminal offense which would disqualify the person from obtaining a concealed handgun permit;
- (9) is free on bond or personal recognizance pending trial, appeal, or sentencing for a crime which would disqualify him from obtaining a concealed handgun permit; or
- (10) has been adjudicated guilty or received prayer for judgment continued or suspended sentence for one or more crimes of violence constituting a misdemeanor, including, but not limited to, a violation of an offense under Article 8 of Chapter 14 of the General Statutes; (This encompasses most assault offenses).
- (11) or a violation of a misdemeanor under the following provisions of the North Carolina General Statutes: N.C.G.S. §§ 14-225.2, 14-226.1, 14-258.1,

14-269.2, 14-269.3, 14-269.4, 14-269.6, 14-276.1, 14-277, 14-277.1, 14-277.2, 14-277.3, 14-281.1, 14-283, 14-288.2, 14-288.4(a)(1), or (2), 14-288.6, 14-288.9, 14-288.12, 14-288.13, 14-288.14, 14-318.2, or 14-415.21(b). (see appendix for a brief description of these disqualifying offenses.)

NOTE: The appendix of this publication also contains a list of Do's and Don'ts for those lawfully possessing permits to carry concealed handguns.

Once the applicant is issued the permit to carry a concealed weapon, he/she must renew the permit every five years. In order to renew the permit, the holder must file an application for renewal with the Sheriff's Office in the county in which he resides at least 30 days prior to the expiration of the original permit. Along with this application, the applicant must also submit to the Sheriff a notarized affidavit stating that he remains qualified, the proper renewal fee of \$75.00, and a newly administered set of fingerprints. Prior to determining if an individual remains qualified, a Sheriff must update the applicant's criminal history. The Sheriff may require the permittee take another firearms safety and training course prior to renewal. No fingerprints shall be required for a renewal permit if the applicant's fingerprints were submitted to the State Bureau of Investigation after June 30, 2001, on the Automated Fingerprint Information System (AFIS) as prescribed by the State Bureau of Investigation.

A concealed carry holder who is, or will be, deployed for military service is allowed to apply with the sheriff for an extension of the concealed carry permit up to an additional 90 days after the permittee's scheduled deployment is to end.

In emergencies, a Sheriff may issue a temporary permit to an individual when the Sheriff has reasonable belief that the person's safety or the safety of his property or family is in immediate danger. In order to obtain this emergency permit, the applicant must first establish to the Sheriff that an emergency situation exists. The person must also submit an application, two sets of fingerprints, and the non-refundable fee of \$80.00. The temporary permit is valid for a maximum of 90 days, nonrenewable and may be revoked by the Sheriff at any time without a hearing.

The law specifically exempts from the firearms safety and training course certain qualified law enforcement officers. These officers include:

- (1) an individual who retired from service as a law enforcement officer with a local, state, or company police agency in North Carolina, other than for reasons of mental disability, who has been retired as a sworn law enforcement officer two years or less from the date of the permit application, and

- a. has a nonforfeitable right to benefits under the retirement plan to the local, state, or company police agency as a law enforcement officer or has 20 or more aggregate years of law enforcement service and has retired from a company police agency that does not have a retirement plan.
- (2) a current law enforcement officer employed by a local, state, or company police agency in North Carolina who:
- a. is authorized by the agency to carry a handgun in the course of duty;
 - b. is not the subject of a disciplinary action by the agency that prevents the carrying of a handgun; and
 - c. meets the requirements established by the agency regarding handguns.

Any individual who has applied for and has been issued a concealed handgun permit must follow certain regulations concerning its use. Not only must the person carry the permit along with proper identification whenever the handgun is being carried concealed, but he must also inform any law enforcement officer who approaches him that he is in possession of a permit and a concealed handgun. Failure to do so is an infraction for the first offense and subjects the applicant to the payment of a fine of up to \$100.00. However, in lieu of paying a fine for the first offense, the individual may choose to surrender his permit. Any subsequent offense shall be punished as a Class 2 misdemeanor. Any individual who violates any other standards for the carrying of a concealed handgun with a permit is guilty of a Class 2 misdemeanor. Any person who has not been issued a valid permit but carries a concealed handgun is guilty of a Class 2 misdemeanor for the first offense and any subsequent offenses are Class I felonies.

Although a person may have a permit to carry a concealed weapon, they are not authorized to carry that weapon anywhere they wish. The weapon may not be carried in the following areas:

- (1) any area prohibited by N.C.G.S. §§ 14-269.3, 14-269.4, 14-277.2, or 120-32.1. (School grounds, areas where alcohol is sold and consumed, state property, legislative buildings, and public gatherings such as parades);
- (2) any area prohibited by 18 USC § 922 or any other federal law;
- (3) in any law enforcement agency or correctional facility;
- (4) in a building housing only state or federal offices;

- (5) in an office of the state or federal government that is not located in a building exclusively occupied by the state or federal government;
- (6) a financial institution; or
- (7) any premises, except state owned rest areas or stops along the highways, where notice that carrying a concealed handgun is prohibited by the posting of a conspicuous notice or statement by the person in legal possession or control of the premises.

Those individuals exempted from the prohibitions on carrying concealed weapons as set forth in paragraph III. A. of this publication are not prohibited from carrying a concealed weapon or handgun on property on which a notice is posted prohibiting the carrying of a concealed handgun, unless otherwise prohibited by statute.

North Carolina General Statute § 14-415.23 provides that no political subdivisions, boards, or agencies of the state nor any county, city, municipality, municipal corporation, town, township, village, nor any department or agency thereof, may enact ordinances, rules, or regulations concerning legally carrying a concealed handgun. A unit of local government may, however, adopt an ordinance to permit the posting of a prohibition against carrying a concealed handgun in local government buildings, their appurtenant premises, and parks.

Effective June 21, 1996, a new Article 53B was enacted which provides that with certain exceptions the field of firearms regulation is preempted from regulation from local governments. A county or municipality may regulate or prohibit the sale of firearms at a location only if there is a lawful, general, similar regulation or prohibition of other commercial activities at that location. A county or municipality may also regulate the transport, carrying, or possession of firearms by employees of the local unit of government in the course of their employment with that local unit of government. Municipalities or counties retain their authority to prohibit the possession of firearms in publicly owned buildings or grounds except that nothing would prohibit a person from storing a firearm within a motor vehicle while the vehicle is on these grounds or areas.

Any person who has been issued a valid permit must notify the Sheriff who issued the permit within thirty days after he/she has a permanent change of address. If the permit is lost or destroyed, he/she must notify the Sheriff who issued the permit of such loss. They are then eligible to obtain a duplicate permit by submitting to the Sheriff a notarized statement that the permit was lost or destroyed and paying the required duplicate permit fee.

It is unlawful for the permittee to carry a concealed handgun while consuming alcohol or at any time while the person has remaining in his body any alcohol or in his blood a

controlled substance previously consumed. However, a permittee does not violate this law if a controlled substance in his blood was lawfully obtained and taken in therapeutically appropriate amounts.

The Sheriff of the county where the permit was issued or the Sheriff of the county where the person resides may revoke a permit, subsequent to a hearing, for any of the following reasons:

- (1) Fraud, intentional or material misrepresentation in the obtaining of a permit.
- (2) Misuse of a permit, including lending or giving a permit to another person, duplicating a permit, or using a permit with the intent to unlawfully cause harm to a person or property.
- (3) The doing of an act or existence of a condition which would have been grounds for the denial of the permit by the Sheriff.
- (4) The violation of any terms governing the carrying of concealed handguns.
- (5) The applicant is adjudicated guilty, or receives a prayer for judgment continued for a crime which would have disqualified the applicant from initially receiving a permit.

A permittee may appeal the revocation, or non-renewal of a permit by petitioning a district court judge of the district in which the applicant resides. The determination by the court, will be upon the facts, the law, and the reasonableness of the Sheriff's refusal.

C. TRANSPORTING WEAPONS

Given this general prohibition of carrying concealed weapons, individuals must be ever vigilant to ensure that their particular situation cannot be construed as concealing a weapon either on or about them without being properly authorized to do so with a valid North Carolina or recognized out of state concealed handgun permit. Therefore, the person's accessibility to the weapon is of prime importance. It is for these reasons, that when transporting a weapon in a vehicle, even greater care must be exercised to ensure that the weapon is not concealed and within the ready access to an occupant of the vehicle. North Carolina law does not specifically address how to transport a weapon in an automobile. Therefore, the central question becomes: when is the weapon concealed and readily accessible to an occupant of the automobile? Obviously, a weapon would be concealed and readily accessible, and therefore in violation of our law, if it were placed in such areas of a vehicle as, under the seat of the automobile; in a bag in the back seat; or in some other manner is covered or hidden within the easy reach of an occupant of the vehicle. It is our

recommendation that firearms should not be carried in a glove compartment regardless of whether the compartment is locked or not.

While a weapon carried openly in an automobile would not be concealed, there are other problems attendant to this method of carrying a weapon. The principal drawback, of course, is in the event of a person being stopped by a law enforcement official, the officer may not readily know that person's purpose and intent for carrying a weapon. As such, it is imperative that a person immediately notify an officer of the presence of any weapon in the automobile, for the officer's and the vehicle's occupants' safety. Another obvious drawback is that a valuable weapon may be in plain view for potential thieves to see. The prohibition to carrying concealed weapons applies not only to handguns and other weapons commonly thought of as being easily hidden, but also to "long guns" as well. Therefore, shotguns and rifles concealed behind the seat of pickup trucks, and elsewhere in other vehicles, could similarly violate our law.

As to those vehicles with no easily discernible trunk area, for example vans, the question turns on a factual determination of when the weapon is within ready and easy access to an occupant of the vehicle. If the weapon is concealed near, in close proximity to, or within the convenient control and access of an occupant, which would allow him to use the weapon quickly, then a fair probability exists that the occupant is in violation of the law. Therefore, care must be exercised by any occupant of a vehicle to ensure that the weapons are securely locked away in as remote an area as possible in relation to the passenger compartment of the vehicle. It is important to emphasize that these prohibitions apply to passengers, as well as the driver of a vehicle.

D. AREAS WHERE WEAPONS ARE PROHIBITED

1. SCHOOLS

North Carolina General Statute § 14-269.2 provides that it is a Class I felony for any person to possess or carry, whether openly or concealed, any gun, rifle, pistol, or other firearm of any kind, on educational property or to a curricular or extra-curricular activity sponsored by a school. It is also a Class I felony, for any person to cause, encourage, or aid a person who is less than 18 years old to possess or carry, whether openly or concealed, any gun, rifle, pistol, or other firearm of any kind, on educational property. This particular violation does not apply to BB guns, stun guns, air rifles, or air pistols.

It is a Class G felony for any person to possess or carry, whether openly or concealed, any dynamite cartridge, bomb, grenade, mine, or powerful explosive, on educational property or to a curricular or extra-curricular activity sponsored by a school. This particular prohibition will not apply to fireworks. It is also a violation, punishable as a Class G felony, for any person to cause, encourage, or aid a person who is less than 18 years

old to possess or carry, whether openly or concealed, any dynamite cartridge, bomb, grenade, mine, or powerful explosive, on educational property. Again, this particular violation does not apply to fireworks.

It is a Class 1 misdemeanor for any person to possess or carry, whether openly or concealed, any BB gun, stun gun, air rifle, air pistol, bowie knife, dirk, dagger, slungshot, loaded cane, switchblade knife, blackjack, metallic knuckles, razors and razor blades (except solely for personal shaving), fireworks, or any sharp pointed or edged instrument, except instructional supplies, unaltered nail files and clips, and tools used solely for the preparation of food, instruction, and maintenance on educational property. It is also a Class 1 misdemeanor for any person to cause, encourage, or aid a person who is less than 18 years old to possess or carry, whether openly or concealed, any of these items on educational property.

These prohibitions will apply on any school building or bus, school campus, grounds, recreational area, athletic field, or other property owned, used, or operated by any board of education or school board of trustees, or directors for the administration of any school.

It is a misdemeanor, rather than a Class I felony, for any person to possess or carry, whether openly or concealed, any gun, rifle, pistol, or other firearm of any kind, on educational property or to a curricular or extracurricular activity sponsored by a school if:

- (1) The person is not a student attending school on the educational property or an employee employed by the school working on the educational property; and
- (2) The person is not a student attending a curricular or extracurricular activity sponsored by the school at which the student is enrolled or an employee attending a curricular or extracurricular activity sponsored by the school at which the employee is employed; and
- (3) The firearm is not loaded, is in a motor vehicle, and is in a locked container or a locked firearm rack.

The aforementioned prohibitions will not apply to:

- (1) A weapon used solely for educational or school sanctioned ceremonial purposes, or used in a school approved program conducted under the supervision of an adult whose supervision has been approved by the school authority;

- (2) Fire fighters, emergency service personnel, North Carolina Forest Service personnel, and any private police employed by an educational institution, when acting in the discharge of their official duties;
- (3) Those persons exempted by G.S. § 14-269(b), as set forth in paragraph III. A. of this publication; or
- (4) Home schools.

No person is guilty of a criminal violation of this section so long as both of the following apply:

- (1) The person comes into possession of a weapon by taking or receiving the weapon from another person or by finding the weapon.; and
- (2) The person delivers the weapon, directly or indirectly, as soon as practical to law enforcement authorities.

A concealed handgun permit does not allow a permittee to carry a weapon on any school grounds.

2. ASSEMBLIES AND ESTABLISHMENTS

North Carolina law also prohibits any person carrying a gun, rifle, or pistol into any assembly where a fee has been charged for admission or into any establishment where alcoholic beverages are both sold and consumed. Again, the individuals exempted from carrying concealed weapons cited in paragraph III. A. of this publication are similarly exempted under this law. A concealed handgun permit does not allow a permittee to carry a weapon in these areas. The following are also included in this exemption:

- (1) The owner or lessee of the premises or business;
- (2) A person participating in the event, if he is carrying a gun, rifle, or pistol with the permission of the owner, lessee, person, or organization sponsoring the event; and
- (3) A person registered or hired as a security guard by the owner, lessee, person, or organization sponsoring the event.

3. STATE BUILDINGS

It is also unlawful under state law, for any person to possess or carry a weapon, not used for instructional or officially sanctioned ceremonial purposes, in the State Capitol Building, Executive Mansion, Western Residence of the Governor, or on the grounds of these buildings, including any building used to house any Court of the General Court of Justice. Persons exempted by the provisions of G.S. § 14-269(b) are not bound by this prohibition. These persons are set forth in paragraph III. A. of this publication. Also exempt are persons in possession of weapons for evidentiary purposes, or who are delivering the weapon to a law enforcement agency. This prohibition does not apply to state owned rest areas, rest stops along the highways, and state owned hunting and fishing reservations. Possessing or carrying a weapon in these areas is a misdemeanor. A concealed handgun permit does not allow a permittee to carry a weapon in these areas.

4. EVENTS OCCURRING IN PUBLIC PLACES

North Carolina law further makes it unlawful for any person participating in, affiliated with, or present as a spectator at any parade, funeral procession, picket line, or demonstration upon any public place owned or under the control of the State or any of its political subdivisions to willfully or intentionally possess or have immediate access to any dangerous weapon. Persons exempted by the provisions of G.S. § 14-269(b) are not bound by this prohibition. These persons are set forth in paragraph III. A. of this publication. A concealed handgun permit does not allow a permittee to carry a weapon in these areas.

5. AREAS OF EMERGENCIES AND RIOTS

It is also a misdemeanor under North Carolina law for a person to transport or possess, off his own premises, a dangerous weapon in an area during a declared state of emergency, or in the vicinity of a riot. A concealed handgun permit does not allow a permittee to carry a weapon in these areas.

6. GOING ARMED TO THE TERROR OF THE PEOPLE

By common law in North Carolina, it is unlawful for a person to arm himself with any unusual and dangerous weapon, for the purpose of terrifying others, and go about on public highways in a manner to cause terror to others. The N.C. Supreme Court has said that any gun is an unusual and dangerous weapon for purposes of this offense. Therefore persons are cautioned as to the areas they frequent with firearms.

7. STORAGE OF FIREARMS

Any person who resides in the same premises as a minor, who owns or possesses a firearm, and stores or leaves that firearm in a condition that the firearm can be discharged and in a manner that the person knew or should have known that an unsupervised minor would be able to gain access to the firearm, is guilty of a misdemeanor if such minor gains access to the firearm without the lawful permission of the minor's parents or a person

having charge of the minor, and the minor in turn possesses that weapon unlawfully on any campus or educational property in North Carolina; exhibits the weapon in a public place in a careless, angry, or threatening manner; causes personal injury or death with the weapon not in self defense; or uses the weapon in the commission of a crime. A minor is defined in this law as anyone under the age of 18 who is not emancipated.

This law goes on to provide that it shall not prohibit a person from carrying a firearm on his or her body or placed in such close proximity that it can be used as easily and quickly as if carried on the body. This provision of the law should not be interpreted however to modify the previously recited law on carrying concealed weapons in North Carolina. Additionally, this law does not apply if the minor obtained the weapon as a result of an unlawful entry by any person.

A written copy of this firearms storage law, found in G.S. § 14-315.1, is required to be delivered by the transferor in any retail commercial sale or transfer of a firearm to the purchaser or transferee of such weapon. All such transferors should take appropriate steps to have a verbatim copy of this law available at the time of any transfer of a weapon.

E. PERSONS ACQUITTED OF A CRIME BY REASON OF INSANITY

It is a Class H felony for a person to purchase, own, possess or have control of a firearm or any weapon of mass death and destruction, when that person has by reason of insanity been acquitted of or who has been determined under G.S. §15A-1002 to lack the capacity to proceed in those crimes enumerated in the N.C. Felony Firearms acts (see section V. of this publication) and other assaults under North Carolina law.

IV. RESTRICTED AND PROHIBITED WEAPONS

A. BALLISTIC OR PROJECTILE KNIVES

Pursuant to North Carolina General Statute § 14-269.6, it is unlawful for any person, including law enforcement officers of the State, or of any county, city, or town, to possess, offer for sale, hold for sale, sell, give, loan, deliver, transport, manufacture, or go armed with any spring loaded projectile knife, a ballistic knife, or any weapon of similar character. The sole exception to this law is that a law enforcement agency may possess such a weapon solely for evidentiary, education, or training purposes. Basically, a projectile or ballistic knife is one which propels or shoots its blade from the handle.

Federal law, found in 15 U.S.C. § 1243, prohibits the manufacture, sale, or possession of a switchblade knife. An exception to this federal crime is allowed for a switchblade knife with a blade three inches or less in length possessed by a person with one arm.

B. WEAPONS OF MASS DESTRUCTION

North Carolina General Statute § 14-288.8 provides that it is unlawful for any person to manufacture, assemble, possess, store, transport, sell, offer to sell, purchase, offer to purchase, deliver, give to another, or acquire any weapon of mass death and destruction. A weapon of mass death and destruction includes:

- (1) bombs of all sorts;
- (2) grenades;
- (3) rockets having a propellant charge of more than 4 ounces;
- (4) a missile having an explosive or incendiary charge of more than one-quarter ounce;
- (5) mine;
- (6) any type of weapon (other than a shotgun or a shotgun shell of a type particularly suitable for sporting purposes) which will expel a projectile using an explosive or other propellant and which has a barrel with a bore of more than one-half inch in diameter;
- (7) any firearm capable of fully automatic fire;
- (8) any shotgun with a barrel length less than eighteen inches or an overall length of less than twenty-six inches;
- (9) a rifle with a barrel length of less than sixteen inches or an overall length of less than twenty-six inches;
- (10) any muffler or silencer for any firearm, whether or not such firearm is included within this definition;
- (11) any combination of parts either designed or intended for use in converting a device into any weapon described above and from which a weapon of mass death and destruction may readily be assembled.

Thus, a device which could convert a semi-automatic firearm into one capable of fully automatic fire, would be in violation of this statute, whether or not one actually possesses such a weapon. The possession of the device itself is a crime. If any person possesses a

weapon of mass death and destruction in violation of this statute, he would be guilty of a Class F Felony.

The only persons capable of owning or possessing a weapon of mass death and destruction, as defined above, are the following:

- (1) Persons exempted from the provisions of carrying a concealed weapon in North Carolina with respect to any activity lawfully engaged in while carrying out their duties;
- (2) Importers, manufacturers, dealers, and collectors of firearms, ammunition, or destructive devices validly licensed under the laws of the United States or the State of North Carolina, while lawfully engaged in activities authorized under their licenses;
- (3) Persons under contract with the United States, the State of North Carolina, or any agency of either government, with respect to any activities lawfully engaged in under their contracts; or
- (4) Inventors, designers, ordinance consultants and researchers, chemists, physicists, and other persons lawfully engaged in pursuits designed to enlarge the knowledge of or to facilitate the creation, development, or manufacture of weapons of mass death and destruction intended for use in a manner consistent with the laws of the United States and the State of North Carolina.

C. NUCLEAR, BIOLOGICAL, OR CHEMICAL WEAPONS OF MASS DESTRUCTION

Pursuant to North Carolina General Statute § 14-288.21 it is unlawful for any person to knowingly manufacture, assemble, possess, store, transport, sell, offer to sell, purchase, offer to purchase, deliver or give to another, or acquire a nuclear, biological, or chemical weapon of mass destruction. This prohibition does not apply to the following:

- (1) Persons listed in N.C.G.S. § 14-269(b) with respect to any activities lawfully engaged in while carrying out their duties.
- (2) Persons under contract with, or working under the direction of, the United States, the State of North Carolina, or any agency of either government, with respect to any activities lawfully engaged in under their contracts or pursuant to lawful direction.

- (3) Persons lawfully engaged in the development, production, manufacture, assembly, possession, transport, sale, purchase, delivery or acquisition of any biological agent, disease organism, toxic or poisonous chemical, radioactive substance or their immediate precursors, for preventive, protective, or other peaceful purposes.
- (4) Persons unlawfully engaged in accepted agricultural, horticultural, or forestry practices; aquatic weed control; or structural pest and rodent control, in a manner approved by the federal, State, county, or local agency charged with authority over such activities.

The term “nuclear, biological, or chemical weapon of mass destruction” means any of the following:

- (1) Any weapon, device, or method that is designed or has the capability to cause death or serious injury through the release, dissemination, or impact of:
 - a. Radiation or radioactivity;
 - b. A disease organism; or
 - c. Toxic or poisonous chemicals or their immediate precursors.
- (2) Any substance that is designed or has the capability to cause death or serious injury and:
 - a. Contains radiation or radioactivity;
 - b. Is or contains toxic or poisonous chemicals or their immediate precursors; or
 - c. Is or contains one or more of the following:
 - 1. Any select agent that is a microorganism, virus, bacterium, fungus, rickettsia, or toxin listed in Appendix A of Part 72 of Title 42 of the Code of Federal Regulations.
 - 2. Any genetically modified microorganisms or genetic elements from an organism on Appendix A of Part 72 of Title 42 of the Code of Federal Regulations, shown to produce or encode for a factor associated with a disease.
 - 3. Any genetically modified microorganisms or genetic elements that contain nucleic acid sequences coding for any of the toxins listed on Appendix A of Part 72 of Title 42 of the Code of Federal Regulations, or their toxic submits.

The term “nuclear, biological, or chemical weapon of mass destruction” also includes any combination of parts or substances either designed or intended for use in converting any device or substance into any nuclear, biological, or chemical weapon of mass destruction or from which a nuclear, biological, or chemical weapon of mass destruction may be readily assembled or created.

Any person who violates any provision of N.C.G.S. § 14-288.21 is guilty of a Class B1 felony.

Pursuant to N.C.G.S. § 288.22, any person who unlawfully and willfully injures another by the use of a nuclear, biological, or chemical weapon of mass destruction is guilty of a Class A felony and will be sentenced to life imprisonment without parole. Any person who attempts, solicits another, or conspires to injure another by the use of a nuclear, biological, or chemical weapon of mass destruction is guilty of a Class B1 felony. Any person who for the purpose of violating any provision of these laws, deposits for delivery or attempts to have delivered, a nuclear, biological, or chemical weapon of mass destruction by the United States Postal Service or other public or private business engaged in the delivery of mail, packages, or parcels is guilty of a Class B1 felony.

Pursuant to N.C.G.S. § 288.23, any person who, by any means of communication to any person or group of persons, makes a report, knowing or having reason to know the report is false, that causes any person to reasonably believe that there is located at any place or structure whatsoever any nuclear, biological, or chemical weapon of mass destruction is guilty of a Class D felony. The court may order a person convicted under this section to pay restitution, including costs and consequential damages resulting from disruption of the normal activity that would have otherwise occurred but for the false report pursuant to Article 81C of Chapter 15A of the General Statutes. The term “report” also includes making accessible to another person by computer.

Pursuant to N.C.G.S. § 288.24, any person who, with intent to perpetrate a hoax, conceals, places, or displays any device, object, machine, instrument, or artifact, so as to cause any person reasonably to believe the same to be a nuclear, biological, or chemical weapon of mass destruction is guilty of a Class D felony. The court may order a person convicted under this section to pay restitution, including costs and consequential damages resulting from disruption of the normal activity that would have otherwise occurred but for the hoax, pursuant to Article 81C of Chapter 15A of the General Statutes.

D. MACHINE GUNS

Pursuant to North Carolina General Statute § 14-409 it is unlawful for any person, firm, or corporation to manufacture, sell, give away, dispose of, use or possess machine guns, sub-machine guns, or other like weapons. A machine gun or sub-machine gun is one

which shoots, or can be readily restored to shoot more than one round, without manual reloading, by a single function of the trigger. It also includes any frame or receiver of such a weapon, or parts used in converting a weapon into a machine gun or sub-machine gun. This prohibition does not apply to the following:

- (1) Banks, merchants, and recognized business establishments for use in their respective places of business. However, these persons must first apply to and receive from the Sheriff of the county in which their business is located, a permit to possess the weapon for the purpose of defending their business;
- (2) Officers and soldiers of the United States Army, when in the discharge of their official duties;
- (3) Officers and soldiers of the Militia when being called into actual service;
- (4) Officers of the State, or county, city or town, charged with the execution of laws of the State, when acting in the discharge of their official duties; and
- (5) The manufacture, use, or possession of such weapons for scientific or experimental purposes when such manufacture, use, or possession is lawful under federal laws and the weapon is registered with a Federal agency, and a permit to manufacture, use, or possess the weapon has been obtained by the Sheriff of the county in which the weapon is located.

Any bona fide resident of the state who now owns a machine gun used in former wars may retain and keep that weapon at his own property, as a relic or souvenir, without violating the provisions of this section, as long as he reports this weapon to the Sheriff of the county in which he lives.

Therefore, certain conditions must be met by the possessor of a machine gun before it may be lawfully kept in North Carolina. First, the possessor must fall within one of the specifically listed exceptions to the general prohibition of ownership. Second, one must also apply for a permit to possess the weapon from the Sheriff. It is then the responsibility of the Sheriff to satisfy himself as to the lawfulness of the reason for such possession and of the good moral character of the possessor. Among other considerations, the Sheriff should consider the inherent danger to the public as a result of the possession of a machine gun.

It has been consistently held within our office that the valid licensing of an individual to possess a machine gun under Federal law does not automatically legitimate his possession of the weapon in the various counties of North Carolina. Nor does such federal licensing require the Sheriff to issue a permit for the possession of such a weapon without first satisfying the prerequisites of G.S. § 14-409. Therefore, the permit provisions of G.S. §

14-409 would need to be complied with, even though a person is currently licensed under federal law to possess a machine gun.

E. TEFLON-COATED BULLETS

Pursuant to North Carolina General Statute § 14-34.3 it is unlawful for any person to import, manufacture, possess, store, transport, sell, offer to sell, purchase, offer to purchase, deliver or give to another, or acquire any Teflon-coated bullet. This prohibition does not apply to the following:

- (1) Officers and soldiers of the United States Army, when in the discharge of their official duties;
- (2) Officers and soldiers of the Militia when being called into actual service;
- (3) Officers of the State, or county, city or town, charged with the execution of laws of the State, when acting in the discharge of their official duties;
- (4) Importers, manufacturers, and dealers validly licensed under the laws of the United States or the State of North Carolina who possess for the purpose of sale to authorized law-enforcement agencies only; and
- (5) Inventors, designers, ordinance consultants and researchers, chemists, physicists, and other persons employed by or under contract with a manufacturing company engaged in making or doing research designed to enlarge knowledge or to facilitate the creation, development, or manufacture of more effective police-type body armor.

V. FELONY FIREARMS ACT

Another aspect of North Carolina law necessary for a good working knowledge of firearms laws, is our Felony Firearms Act, found in G.S. § 14-415.1. This restriction on gun ownership applies to any person who has been convicted of any North Carolina felony or violations of criminal laws of other States, or the United States, which are punishable by imprisonment for a term exceeding one year. Effective December 1, 2004, these individuals cannot purchase, own, possess, or have in their custody, care, or control, any firearm at any location or any weapon of mass death and destruction. This prohibition continues indefinitely. This prohibition does not apply however to “antique firearms” as set forth in Section II. B. of this publication.

The Federal Firearms Statute, at 18 U.S.C. § 922, is independent of North Carolinas' and should be consulted before anyone convicted of a felony, in any state or federal court, possesses, receives or transports any firearm. For detailed information on this federal law, persons are urged to contact the Bureau of Alcohol, Tobacco, and Firearms, or the U.S. Attorneys Office in their area.

VI. AGE REQUIREMENTS FOR THE PURCHASE AND POSSESSION OF WEAPONS

North Carolina law does not currently address specific age requirements for the purchase of weapons. Rather, they look to the federal standards for such restrictions. Under federal law, at 18 U.S.C. § 922(b)(1), federally licensed gun dealers are prohibited from selling handguns to persons under the age of 21. Further, all other purchasers of shotguns and rifles are required to be at least 18 years old.

North Carolina General Statute § 14-269.7 provides that it is a misdemeanor for any person under the age of 18 to possess or carry a handgun. A handgun is defined as a firearm that has a short stock and is designed to be fired by the use of a single hand, or any combination of parts from which such a firearm can be assembled. This prohibition does not apply to the following:

- (1) Officers and enlisted personnel of the Armed Forces of the United States when in discharge of their official duties or acting under orders requiring them to carry handguns.
- (2) A minor who possesses a handgun for educational or recreational purposes while the minor is supervised by an adult who is present.
- (3) An emancipated minor who possesses such a handgun inside his or her residence.
- (4) A minor who possesses a handgun while hunting or trapping outside the limits of an incorporated municipality if he has on his person written permission from a parent, guardian, or other person standing in loco parentis.

North Carolina law found in G.S. § 14-315, prohibits any person from selling, offering for sale, giving away, or in any way transferring to a person under the age of 18 any pistol cartridge, brass knucks, Bowie knife, dirk, shurikin, loaded cane, or slungshot. Any person who violates this law is guilty of a Class 1 misdemeanor and, in addition, shall forfeit the proceeds of any sale made in violation of this prohibition.

This statute further provides that it is a Class H felony for a person to sell, offer for sale, give, or in any way transfer to a person less than 18 years of age any handgun as defined in G.S. § 14-269.7. Additionally, an individual guilty of this offense would forfeit the proceeds of any sale made in violation of this section. This law does not apply to the following circumstances:

- (1) When the handgun is lent to a minor for temporary use if the minor's possession of the handgun is lawful under G.S. § 14-269.7 and G.S. § 14-316 and is not otherwise unlawful.
- (2) When the handgun is transferred to an adult custodian pursuant to Chapter 33A of the General Statutes, and the minor does not take possession of the handgun except that the adult custodian may allow the minor temporary possession of the handgun in circumstances in which the minor's possession of the handgun is lawful under G.S. § 14-269.7 and G.S. § 14-316 and is not otherwise unlawful.
- (3) When the handgun is a devise or legacy and is distributed to a parent or guardian under G.S. § 28A-22-7, and the minor does not take possession of the handgun except that the parent or guardian may allow the minor temporary possession of the handgun in circumstances in which the minor's possession of the handgun is lawful under G.S. § 14-269.7 and G.S. § 14-316 and is not otherwise unlawful.

It is a defense to a violation of this law if all of the following conditions are met:

- (1) The person shows that the minor produced an apparently valid permit to receive the weapon, if such permit would be required under G.S. § 14-402 or G.S. § 14-409.1 for transfer of the weapon to an adult.
- (2) The person reasonably believed that the minor was not a minor.
- (3) The person either:
 - a. Shows that the minor produced a driver's license, a special identification card issued under G.S. § 20-37.7, a military identification card, or a passport, showing the minor's age to be at least the required age for purchase and bearing a physical description of the person named on the card reasonably describing the minor; or
 - b. Produces evidence of other facts that reasonably indicated at the time of sale that the minor was at least the required age.

Under G.S. § 14-316, a guardian or parent of a child under 12 may not allow such child to have possession, custody, or the use of any gun, pistol, or dangerous firearm, except under the parent or guardian's direct supervision. Air rifles, air pistols, and BB guns shall not be deemed "dangerous firearms" within the meaning of this statute except in: Anson, Caldwell, Caswell, Chowan, Cleveland, Cumberland, Durham, Forsyth, Gaston, Harnett, Haywood, Mecklenburg, Stanly, Stokes, Surry, Union and Vance Counties.

VII. FIREARMS DEALERS

Every dealer in pistols, and other weapons, must keep an accurate record of all sales. This record should include the name, place of residence, and date of sale, of each person, firm, or corporation to whom such sale was made. The record is required to be open to the inspection of any duly constituted state, county, or city police officer within the State of North Carolina.

Upon the retail commercial sale or transfer of any firearm, the seller or transferor shall deliver a written copy of North Carolina General Statute § 14-315.1 to the purchaser or transferee. Additionally, any retail or wholesale store, shop, or sales outlet that sells firearms shall conspicuously post at each purchase counter the following warning in block letters not less than one inch in height: "IT IS UNLAWFUL TO STORE OR LEAVE A FIREARM THAT CAN BE DISCHARGED IN A MANNER THAT A REASONABLE PERSON SHOULD KNOW IS ACCESSIBLE TO A MINOR". A violation of these provisions is a misdemeanor under North Carolina law.

VIII. COMMONLY ASKED FIREARMS QUESTIONS

1. MAY I CARRY A CONCEALED WEAPON IN NORTH CAROLINA?

ANSWER: No. As a general rule, North Carolina law forbids private citizens from carrying a concealed weapon, either on or about their person, while off their premises unless they have a concealed handgun permit. This prohibition pertains to not only firearms, but also to any other deadly weapon. You are referred to sections III. A. and B. of this publication for a more detailed analysis of this complex area, to include transporting a firearm in a vehicle.

2. MAY I GET A PERMIT TO CARRY A CONCEALED WEAPON IN NORTH CAROLINA?

ANSWER: Yes, certain qualified North Carolina residents can get a permit to carry concealed handguns under certain circumstances. Currently, North Carolina allows out of state concealed handgun permittees to carry concealed handguns pursuant to such permits in North Carolina if the person's respective state also grants such privilege to North Carolina concealed handgun permittee. The list of states granting such reciprocity, and therefore recognized by North Carolina, is constantly changing. You should refer to the North Carolina Department of Justice website at www.ncdoj.com for a current listing of those states which are allowed to carry pursuant to their concealed carry permits in North Carolina. Please be aware that while carrying a handgun pursuant to such permit, qualified out of state permittees are held to the same standards as North Carolina permittees. Consequently, there are a number of areas where concealed handguns cannot be carried in North Carolina regardless of the individual having a permit to carry a concealed weapon. A more detailed discussion of what areas prohibit the possession of a firearm is contained in section III. C. of this publication.

3. HOW DO I GET A HANDGUN PURCHASE PERMIT?

ANSWER: Pistol permits may be obtained from the Sheriff where the purchaser or receiver resides. An application must be submitted to the Sheriff by the individual who desires to obtain a pistol permit, and must satisfy the requirements of our state law. These requirements are set out in section II. of this publication.

4. HOW OLD MUST I BE TO PURCHASE A HANDGUN, SHOTGUN, OR RIFLE?

ANSWER: To purchase a handgun an individual must be 21 years or older. The age at which a person can purchase a shotgun or rifle is 18.

5. IS IT LAWFUL TO CARRY A WEAPON TO A BAR OR SIMILAR ESTABLISHMENT FOR PURPOSES OF PROTECTION?

ANSWER: No. North Carolina General Statutes forbid a person to carry a weapon into an assembly where an admission fee has been charged or a place where alcoholic beverages are sold and consumed. Also, a concealed handgun permit does not allow for such. A more detailed discussion of what areas prohibit the possession of a firearm is contained in section III. D. of this publication.

6. DO MY GUNS HAVE TO BE REGISTERED WITH THE SHERIFF OR POLICE DEPARTMENT WHERE I LIVE?

ANSWER: Except as to the requirement to lawfully possess a machine gun under G.S. § 14-409, North Carolina generally does not require other types of firearms to be registered with the Sheriff or Police Department. The only type of "registration" requirement is that a purchaser or receiver of a pistol must first obtain a pistol permit, for each pistol, from the Sheriff of the county in which he resides. Note: A local act requiring registration for Durham, N.C. is still valid law in the State.

7. HOW MANY PISTOL PERMITS CAN I GET AT ANY ONE TIME?

ANSWER: State law sets no limit on the number of permits which can be obtained at any one given time. However, consistent with their authority to regulate the issuance of pistol permits, most Sheriff Departments will limit the number of permits that one applicant may receive. Typically, it is not uncommon for a Sheriff's Department to limit an applicant to a maximum of five such permits in one year.

8. IF I BUY A HANDGUN FROM AN INDIVIDUAL WHOM I HAVE KNOWN FOR A NUMBER OF YEARS AND WHO DOES NOT HAVE A CRIMINAL RECORD, DO I STILL NEED A PERMIT?

ANSWER: Yes. General Statute § 14-402 does not make any exception for the receipt or purchase of a handgun from a private individual as opposed to a firearms dealer. Therefore, a pistol purchase or North Carolina concealed carry permit is necessary before the transfer of any handgun.

9. CAN OUT OF STATE POLICE OFFICERS CARRY CONCEALED WEAPONS IN NORTH CAROLINA WHILE ON DUTY?

ANSWER: Yes, if the officer meets all of the criteria set forth under the federal law known as the Law Enforcement Officers Safety Act of 2004 (H.R.218) and is carrying valid identification as an off-duty officer.

10. HOW LONG IS MY PERMIT TO PURCHASE A HANDGUN VALID?

ANSWER: North Carolina law provides that permits will be valid for five years.

11. FOR PURPOSES OF CARRYING CONCEALED WEAPONS, DOES IT MAKE A DIFFERENCE IF THE WEAPON INVOLVED IS UNLOADED?

ANSWER: No. General Statute § 14-269 does not specify whether the weapon has to be loaded or unloaded. Rather, you look at the location of the weapon to determine whether or not it was concealed.

12. IS A SMALL PISTOL OR KNIFE WHICH IS DESIGNED TO FIT INTO A BELT BUCKLE, BUT IS FULLY FUNCTIONAL, CONSIDERED CONCEALED IN NORTH CAROLINA?

ANSWER: Yes. Gun and knife belt buckles described above falsely give an impression of being ornamental in nature. As their nature and purpose is concealed and misleading, and coupled with the weapons immediate and ready accessibility to the wearer of such a belt buckle, they would be considered concealed.

13. HOW LONG MUST I BE A RESIDENT OF A COUNTY BEFORE I AM ELIGIBLE TO APPLY FOR A PERMIT TO PURCHASE A PISTOL?

ANSWER: North Carolina law does not specifically address how long an individual must reside in a county prior to making application for a pistol permit. However, it is not uncommon for a Sheriff's Department to establish a policy with a minimum residency requirement.

14. IS THE SHERIFF OF THE COUNTY WHERE I RESIDE THE ONLY PERSON WHO CAN ISSUE A PERMIT TO PURCHASE A HANDGUN?

ANSWER: Generally speaking yes; however, General Statute § 14-404 allows a non-resident of a county to obtain a permit to purchase a pistol but only for the purpose of collecting firearms.

15. DO NORTH CAROLINA LAW ENFORCEMENT OFFICERS NEED TO APPLY FOR CONCEALED HANDGUN PERMITS TO CARRY HANDGUNS CONCEALED OFF DUTY?

ANSWER: Authorized law enforcement officers may carry concealed handguns statewide off duty provided that an officer does not carry a concealed weapon while consuming alcohol or an unlawful controlled substance or while alcohol or an unlawful controlled substance remains in the officer's body. Departmental policy and state law must be consulted as to areas an off duty officer would be prohibited from carrying a weapon.

16. WHEN I REDEEM MY PAWNED PISTOL, DO I NEED TO OBTAIN A NORTH CAROLINA STATE PISTOL PERMIT BEFORE RECEIVING MY HANDGUN?

ANSWER: No. North Carolina does not require the owner have a State pistol permit prior to redeeming his pawned pistol. Federal Law however would require a NICS inquiry or suitable alternative prior to redemption.

IX. ADDITIONAL INFORMATION

For more information as to the firearms laws in North Carolina or any suggestions as to how to improve this publication, please contact the Law Enforcement Liaison Section of the Department of Justice at (919) 716-6725.

For more information about Federal Firearms Laws, or inquiries about federal requirements for licensed firearms dealers, you are urged to contact your local or statewide office of the BUREAU OF ALCOHOL, TOBACCO, FIREARMS AND EXPLOSIVES of the U. S. Department of Justice. In North Carolina, the local branch of the BATF may be reached in Charlotte at (704) 716-1800 and in Raleigh at (919) 856-4366.

DISQUALIFYING CRIMINAL OFFENSES PURSUANT
TO N.C.G.S. § 14-415.12(b)(8)

An individual who has been adjudicated guilty of or received a prayer for judgment continued or suspended sentence for offenses constituting a misdemeanor under the following specific statutes, or any other crime of violence, is disqualified from obtaining a permit to carry a concealed handgun:

1. Harassment of and communication with jurors (N.C.G.S. § 14-225.2).
2. Violating orders of court (N.C.G.S. § 14-226.1).
3. Furnishing poison, controlled substances, deadly weapons, cartridges, ammunition or alcoholic beverages to inmates of charitable, mental or penal institutions or local confinement facilities (N.C.G.S. § 14-258.1).
4. Weapons on campus or other educational property (N.C.G.S. § 14-269.2).
5. Carrying weapons into assemblies and establishments where alcoholic beverages are sold and consumed (N.C.G.S. § 14-269.3).
6. Weapons on state property and courthouses (N.C.G.S. § 14-269.4).
7. Possession and sale of spring-loaded projectile knives (N.C.G.S. § 14-269.6).
8. Impersonation of firemen or emergency medical services personnel (N.C.G.S. § 14-276.1).
9. Impersonation of law-enforcement or other public officers (N.C.G.S. § 14-277).
10. Communicating threats (N.C.G.S. § 14-277.1).
11. Weapons at parades and other public gatherings (N.C.G.S. § 14-277.2).
12. Stalking (N.C.G.S. § 14-277.3).
13. Throwing or dropping of objects at sporting events (N.C.G.S. § 14-281.1).
14. Exploding dynamite cartridges and bombs (N.C.G.S. § 14-283).
15. Riot and inciting to riot (N.C.G.S. § 14-288.2).
16. Fighting or conduct creating the threat of imminent fighting or other violence (N.C.G.S. § 14-288.4(a)(1)).

17. Making or using any utterance, gesture, display or abusive language which is intended and plainly likely to provoke violent retaliation and thereby create a breach of peace (N.C.G.S. § 14-288.4(a)(2)).
18. Looting and trespassing during emergency (N.C.G.S. § 14-288.6).
19. Assault on emergency personnel (N.C.G.S. § 14-288.9).
20. Violations of city State of Emergency Ordinances (N.C.G.S. § 14-288.12).
21. Violations of county State of Emergency Ordinances (N.C.G.S. § 14-288.13).
22. Violations of State of Emergency Ordinances (N.C.G.S. § 14-288.14).
23. Child abuse (N.C.G.S. § 14-318.2).
24. Violations of the standards for carrying a concealed weapon (N.C.G.S. § 14-415.21(b)).
25. Any crime of violence found in Article 8 of Chapter 14 in the North Carolina General Statutes.

THE DO'S AND DON'TS OF CARRYING A CONCEALED HANDGUN

1. Your permit to carry a concealed handgun must be carried along with valid identification whenever the handgun is being carried concealed.
2. When approached or addressed by any officer, you must disclose the fact that you have a valid concealed handgun permit and inform the officer that you are in possession of a concealed handgun. You should not attempt to draw or display either your weapon or your permit to the officer unless and until he directs you to do so. Your hands are to be kept in plain view and you are not to make any sudden movements.
3. At the request of any law enforcement officer, you must display both the permit and valid identification.
4. You may not, with or without a permit, carry a concealed weapon while consuming alcohol or while alcohol or any controlled substances are in your blood unless the controlled substance was obtained legally and taken in therapeutically appropriate amounts.
5. You must notify the Sheriff who issued the permit of any address change within thirty (30) days of the change of address.
6. If a permit is lost or destroyed, you must notify the Sheriff who issued the permit and you may receive a duplicate permit by submitting a notarized statement to that effect along with the required fee. Do not carry a handgun without it.
7. Even with a permit, you may not carry a concealed handgun in the following areas:
 - a) Any law enforcement or correctional facility;
 - b) Any space occupied by state or federal employees;
 - c) A financial institution;
 - d) Any premises where the carrying of a concealed handgun is prohibited by the posting of a statement by the controller of the premises;
 - e) Educational property;
 - f) Areas of assemblies, parades, funerals, or demonstrations;
 - g) Places where alcoholic beverages are sold and consumed;
 - h) State occupied property;
 - i) Any state or federal courthouse;
 - j) In any area prohibited by federal law;
 - k) Any local government building if the local government has adopted an ordinance and posted signs prohibiting the carrying of concealed weapons.
8. If you are in a vehicle and stopped by a law enforcement officer, you should put both hands on the steering wheel, announce you are in possession of a concealed handgun and state where you have it concealed, and that you are in possession of a permit. Do not remove your hands from the wheel until instructed to do so by the officer.

North Carolina Department of Justice
Criminal Division - Law Enforcement Liaison Section

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